

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RILEY LARKINS, JR.,

Petitioner,

v.

MARILYN BROOKS, et al.,

Respondents.

Civil Action No. 07-269 Erie

**MEMORANDUM ORDER**

This habeas corpus action was received by the Clerk of Court on October 9, 2007, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 13], filed on June 26, 2008, recommended that Petitioner's Petition be dismissed as untimely and that a certificate of appealability be denied; and further recommended that the motion to dismiss filed by Respondents [Doc. No. 11] be granted. Petitioner was allowed ten (10) days from the date of service to file objections and service was made on Petitioner by certified mail. Petitioner filed objections on July 8, 2008 [Doc. No. 14]. After de novo review of the petition and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 15<sup>th</sup> day of July, 2008;

IT IS HEREBY ORDERED that Petitioner's Petition for Writ of Habeas Corpus is DISMISSED as untimely and a certificate of appealability is DENIED; it is further ORDERED that the motion to dismiss filed by Respondents [Doc. No. 11] is GRANTED.

The Report and Recommendation [Doc. No. 13] of Magistrate Judge Baxter, filed on June 26, 2008, is adopted as the opinion of the Court. The clerk is directed to mark the case closed.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge